IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

M.F.A.No. 1073 of 2001(B)

O.P.(M.A.) NO.1350/1996 of M.A.C.T.,ERNAKULAM
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APPELLANTS/PETITIONERS 1 TO 6:
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1. AMBIKA, AGED 42 YEARS, W/O.LATE SIDHAN, VADAKKAPARAMBIL HOUSE,KONAM EAST, PERUMPADAPPU, PALLURUTHY, KOCHI - 6.

2. SIBIMOL, AGED 22, D/O.LATE SIDHAN, -DO-

3. SIJISH, AGED 20, S/O. LATE SIDHAN, -DO-

4. SINISH, AGED 18, S/O. LATE SIDHAN, -DO-

5. PADMANABHAN, AGED 74, S/O. LATE ANATHI, VADAKKAPARAMBIL HOUSE, KONAM EAST, PERUMPADAPPU, PALLURUTHY, KOCHI - 6.

6. RANNAVALLI, AGED 64, W/O. PADMANABHAN, -DO-

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS/RESPONDENTS:
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1. M.M. NOUSHAD, S/O. M.S.MOHAMMED SHALI, HOUSE NO.2/585, KUNNUMPURAM, COCHIN - 1.

2. D. GIRISH KUMAR, S/O. DAMODHARAN, ILLIKKAL PARAMBIL HOUSE, NAZARETH, COCHIN - 2.

3. THE NEW INDIA ASSURANCE COMPANY LIMITED BY ITS REGIONALMANAGER, REGIONAL OFFICE, KANDAMKULATHY BUILDING, M.G. ROAD, COCHIN - 11.

R3 BY ADV. SRI.KKM.SHERIF
SMT.K.A.ANGEL TREENA
R2 BY ADV. SRI.G.PRABHAKARAN
SRI.S.KRISHNAKUMAR

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 01/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1073 of 2001

Dated this the 1st day of December, 2007

Judgment

Koshy,J.

Legal representatives of a motor accident victim filed application before the Motor Accidents Claims Tribunal claiming Rs.Five lakhs as compensation. Claimants included wife, three children and parents of the deceased. When the case came up for hearing, on the basis of the submission of the advocate, a settlement award was passed for Rs.2,75,000/- on 28.6.1997. The amount was deposited. Thereafter, an I.A. was filed to set aside the settlement award as claimants have not signed the settlement. That was allowed by the tribunal and evidence was adduced and arguments were heard. But, thereafter, the petition was dismissed rejecting the claim saying that since the settlement award was once passed, successor of the presiding officer who passed the impugned award had no right to re-open the same. The presiding officer who passed the impugned award was not an appellate authority over the

decision of his previous officer. The settlement award was reviewed finding that a mistake has happened as the claimants did not sign the settlement. Claimants have to sign the settlement in Lok Adalath awards also. In any event, if the setting aside and review of the settlement award were incorrect, the aggrieved party ought to have challenged the same in the High Court. But, that was not done and setting aside of the settlement award has become final. Therefore, there is no award. In the above circumstances, after re-opening the case, claim cannot be dismissed and the successor presiding officer cannot say that the proceedings of the earlier officer reviewing the award was not correct and the award which was already set aside will govern the field. The award as per the settlement already stands set aside. In the above circumstances, we set aside the impugned award and remand the matter for consideration on merit.

This appeal is allowed by way of remand. We are not expressing any opinion on the merits of the matter. Amount has to be assessed on the basis of evidence adduced in the case. Parties shall appear before the tribunal on 9.1.2008. Documents were already filed. In the above circumstances, the tribunal is directed

to dispose of the matter as expeditiously as possible as the accident occurred in 1997.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No.1073 of 2001

Judgment

Dated:1st December, 2007